

BAKER & HOSTETLER LLP

45 Rockefeller Plaza
New York, NY 10111
Telephone: (212) 589-4200
Facsimile: (212) 589-4201
David J. Sheehan
Nicholas J. Cremona

*Attorneys for Irving H. Picard, Trustee for the
Substantively Consolidated SIPA Liquidation of
Bernard L. Madoff Investment Securities LLC
and for the Estate of Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES, LLC,

Defendant.

In re:

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Debtor.

IRVING H. PICARD, Trustee for the Substantively
Consolidated SIPA Liquidation of Bernard L.
Madoff Investment Securities LLC and the Estate
of Bernard L. Madoff,

Plaintiff,

v.

GERTRUDE E. ALPERN REVOCABLE TRUST,
et al.,

Defendants.

Adv. Pro. No. 08-01789 (SMB)

SIPA Liquidation

(Substantively Consolidated)

Adv. Pro. No. 10-04327 (SMB)

**STIPULATION AND ORDER FOR VOLUNTARY DISMISSAL OF
DEFENDANTS LEWIS ALPERN, JANE ALPERN, AND THE
ESTATE OF GERTRUDE E. ALPERN WITHOUT PREJUDICE**

Irving H. Picard (the “Trustee”), as trustee for the liquidation of the business of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.* (“SIPA”), and the substantively consolidated estate of Bernard L. Madoff individually (“Madoff”), by and through his counsel, Baker & Hostetler LLP, and defendants Lewis Alpern, Jane Alpern, and the Estate of Gertrude E. Alpern (collectively, “Defendants”), by and through their counsel, Klestadt Winters Jureller Southard & Stevens, LLP (collectively, the “Parties), hereby stipulate and agree to the following:

1. On November 26, 2010, the Trustee filed and served the Complaint against multiple defendants, including the Gertrude E. Alpern Revocable Trust, and in which Lewis Alpern was named as a defendant in his capacity as successor trustee of the Gertrude E. Alpern Revocable Trust, as beneficiary of the Gertrude E. Alpern Revocable Trust, as executor of the Estate of Gertrude E. Alpern, and in his capacity as trustee of the Paul Alpern Residuary Trust, and Jane Alpern was named as a defendant as beneficiary of the Gertrude E. Alpern Revocable Trust.

2. On April 17, 2014, Defendants filed and served an answer on the Trustee.

3. Pursuant to the Settlement Procedures Order, entered by this Court on November 12, 2010 [Dkt. No. 3181], the Parties entered into a Settlement Agreement and Release on November 15, 2016 (“Settlement Agreement”).

4. In accordance with Federal Rule of Bankruptcy Procedure 7041, and Federal Rule of Civil Procedure 41(a)(1)(A)(ii), the Parties hereby stipulate to a dismissal without prejudice of the Trustee’s claims against Defendants in their individual capacities in the above-captioned

adversary proceeding, without costs to either Trustee or the Defendants, and subject to the right of the Trustee to seek entry of judgment pursuant to the Stipulation for Entry of Judgment in the event of an uncured default under the terms of the Settlement Agreement, Mortgage, or Promissory Note. Upon the Trustee's receipt of the full Settlement Amount as set forth in the Settlement Agreement, and provided there is no default under the Settlement Agreement, this dismissal shall be deemed with prejudice.

5. This Stipulation dismisses only the claims pending against Lewis Alpern and Jane Alpern and the Estate of Gertrude E. Alpern (the "Dismissed Defendants"). This Stipulation in no way affects the remaining claims pending against the Gertrude E. Alpern Revocable Trust, the Paul Alpern Residuary Trust, Roberta Schwartz, and the Roberta Schwartz Trust, and the Trustee preserves all his rights and claims against any defendant other than the Dismissed Defendants. Upon the dismissal of the Dismissed Defendants, the caption of the Adversary Proceeding is hereby amended to delete the Dismissed Defendants from the caption. The amended caption shall appear as indicated in **Exhibit A** hereto.

6. The provisions of this Stipulation shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns and upon all creditors and parties of interest.

7. This Stipulation may be signed by the Parties in any number of counterparts, each of which when so signed shall be an original, but all of which shall together constitute one and the same instrument. A signed facsimile, photostatic or electronic copy of this Stipulation shall be deemed an original.

8. The Bankruptcy Court shall retain jurisdiction over this Stipulation.

Dated: December 16, 2016
New York, New York

Of Counsel:

BAKER & HOSTETLER LLP

Key Tower
127 Public Square, Suite 2000
Cleveland, Ohio 44114-1214
Telephone: (216) 621-0200
Facsimile: (216) 696-0740
Brett A. Wall
Email: bwall@bakerlaw.com
David F. Proaño
Email: dproano@bakerlaw.com
Darren A. Crook
Email: dcrook@bakerlaw.com
Mark K. Norris
Email: mnorris@bakerlaw.com

BAKER & HOSTETLER LLP

By: /s/ Nicholas J. Cremona

45 Rockefeller Plaza
New York, New York 10111
Telephone: (212) 589-4200
Facsimile: (212) 589-4201
David J. Sheehan
Email: dsheehan@bakerlaw.com
Nicholas J. Cremona
Email: ncremona@bakerlaw.com

*Attorneys for Irving H. Picard, Trustee for the
Substantively Consolidated SIPA Liquidation
of Bernard L. Madoff Investment Securities
LLC and for the Estate of Bernard L. Madoff*

**KLESTADT WINTERS JURELLER
SOUTHARD & STEVENS LLP**

By: /s/ Brendan M. Scott

Brendan M. Scott
200 West 41st Street, 17th Floor
New York, New York 10036-7203
Telephone: (212) 972-3000
Email: BScott@klestadt.com

Attorneys for Defendants

SO ORDERED

Dated: December 16th, 2016
New York, New York

/s/ STUART M. BERNSTEIN
HON. STUART M. BERNSTEIN
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT A

**UNITED STATES BANKRUPTCY COURT
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BERNARD L. MADOFF INVESTMENT
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In re:

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Debtor.

IRVING H. PICARD, Trustee for the
Liquidation of Bernard L. Madoff Investment
Securities LLC,

Plaintiff,

v.

GERTRUDE E. ALPERN REVOCABLE
TRUST, ROBERTA SCHWARTZ TRUST,
PAUL ALPERN RESIDUARY TRUST,

and

ROBERTA SCHWARTZ, as settlor and
beneficiary of the Roberta Schwartz Trust, and
in her capacity as trustee of the Roberta
Schwartz Trust,

Defendants.

Adv. Pro. No. 08-01789 (SMB)
SIPA LIQUIDATION

(Substantively Consolidated)

Adv. Pro. No. 10-04327 (SMB)